

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

SQUIRES LUMBER COMPANY, INC.,

and

CARPENTERS LOCAL 2236, UNITED
BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA.

CASE NOS. 20-CA-160279
20-CA-162074
20-CA-162418
20-CA-162722
20-CA-162732
20-CA-162834
20-CA-166576
20-CA-167530

**RESPONDENT'S SUPPLEMENTAL
ANSWER TO GENERAL COUNSEL'S
MOTION FOR A BILL OF
PARTICULARS**

DATE: February 22, 2016
TIME: 9:00 a.m.
LOCATION: E.V.S. Robbins Courtroom
San Francisco, CA

Comes now Respondent, Squires Lumber Company, Inc. ("Respondent," the "Company" or "Squires"), pursuant to Section 102.24 of the Rules and Regulations of the National Labor Relations Board (the "Board"), to supplement its answer to Counsel for the General Counsel's ("General Counsel"), Motion For a Bill of Particulars in response to the General Counsel's e-mail request dated February 16, 2016.¹

¹ A copy of this request is attached hereto as Exhibit "A".

I. Bill of Particulars.

The General Counsel has filed a Motion for a Bill of Particulars as to Respondent's Fourth Affirmative Defense. Respondent provides the following supplemental information for such affirmative defense.

A. Fourth Affirmative Defense.

Paragraph 19 of Respondent's Amended Answer to Amended Consolidated Complaint alleges:

"FOURTH AFFIRMATIVE DEFENSE

The bargaining unit sought by the Union is not appropriate for purposes of collective-bargaining."

B. Respondent's Original Response.

On September 2, 2015, the date on which the Union contends that a majority of Respondent's employees desired representation, Respondent employed twelve (12) employees, one (1) of whom transferred from Southern California, three (3) of whom had moved from temporary agency to regular status, seven (7) of whom were in temporary agency status on that date, and one (1) of whom was a driver employed by an entity related to Squires. Therefore, Respondent contends that the three-person unit sought by the Union is not appropriate for purposes of collective-bargaining.

C. Respondent's Supplemental Response.

As of September 2, 2015, the three (3) employees who accompanied the Union representative to Squires' Suisun City facility did not constitute a majority of employees in an appropriate bargaining unit. A single plant or plant-wide unit ("wall-to-wall") is presumptively

appropriate. *See, e.g., Hilander Foods*, 348 NLRB 1200 (2006); *J & L Plate, Inc.*, 310 NLRB 429 (1993); *Airco, Inc.*, 273 NLRB 348, 349 (1984). For purposes of evaluating the issues in this case, the Administrative Law Judge has to determine whether the temporary employees and driver should be included in the same unit as Squires' direct employees (*e.g.*, if they share an "overwhelming community of interest" with the three (3) direct employees). *See, e.g., Macy's Inc.*, 361 NLRB No. 4 (2014); *M.B. Sturgis*, 331 NLRB 1928 (2000); *Oakwood Care Center*, 342 NLRB No. 7 (2014); *Miller & Anderson, Inc.*, 05-RC-079249.

II. Conclusion.

Respondent respectfully submits that the Motion for a Bill of Particulars is now moot, and, absent withdrawal by the General Counsel, should be denied.

DATED: February 17, 2016.

Respectfully submitted,

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: 

Dwight L. Armstrong

Attorneys for Respondent
SQUIRES LUMBER COMPANY, INC.

EXHIBIT A

Armstrong, Dwight

From: Peterson, Matt <Matt.Peterson@nlrb.gov>
Sent: Tuesday, February 16, 2016 5:13 PM
To: Armstrong, Dwight
Subject: Squires - Meet and Confer (Bill of Particulars and Motion to Strike)

Dwight,

I write to seek your confirmation that, as we discussed in our conference call of February 16, 2016, to discuss your client's response to the General Counsel's Bill of Particulars and Motion to Strike, the legal basis for your client's Fourth Affirmative Defense is that the bargaining unit sought for by the Union and pled in the Consolidated Complaint is inappropriate only because it fails to include each of the following groups of employees employed by Respondent on September 2, 2015, as described in your client's Answer and/or Opposition to General Counsel's (1) Motion to Strike and (2) Motion for a Bill of Particulars: One (1) employee who transferred from Southern California; Three (3) employees who had moved from temporary agency to regular status by September 2, 2015; Seven (7) employees who were in temporary agency status on September 2, 2015; and One (1) employee who was a driver employed by an entity related to Squires.

Such confirmation will obviate the need for the General Counsel to file a response or additional motions seeking the particulars of your client's legal basis for said Fourth Affirmative Defense, so please correct me if I'm wrong.

Thank you,

Matt

Matt Peterson
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The NLRB strongly encourages all parties to file documents electronically through our online E-File system:

<https://apps.nlrb.gov/eservice/efileterm.aspx>

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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of eighteen (18) and am not a party to this action. My business address is 1900 Main Street, Fifth Floor, Irvine, California 92614-7321.

On February 17, 2016, I served the within document described as:

RESPONDENT'S SUPPLEMENTAL ANSWER TO GENERAL COUNSEL'S MOTION FOR A BILL OF PARTICULARS

on the interested parties in this action as stated below:

Gary P. Provencher, Esq.
Matthew J. Gauger, Esq.
Weinberg Roger & Rosenfeld
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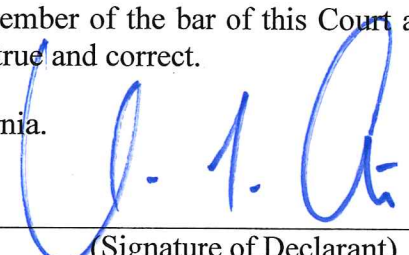
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☒ **BY E-MAIL:** I electronically served the above-described document on the parties by electronically transmitting said document to the e-mail addresses listed above.

I declare under penalty of perjury that I am a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on February 17, 2016, at Irvine, California.

Dwight L. Armstrong
(Type or print name)



(Signature of Declarant)